

State of Wisconsin



1997 Assembly Bill 589

Date of enactment: **July 1, 1998**
Date of publication*: **July 15, 1998**

1997 WISCONSIN ACT 327

AN ACT *to renumber and amend* 961.49 (1) and 961.49 (2) (a); and *to create* 961.49 (1) (c) and (d) and 961.49 (2) (a) 3. and 4. of the statutes; **relating to:** delivery or distribution of a controlled substance, or possession with intent to deliver or distribute a controlled substance, on or near certain places and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 961.49 (1) of the statutes is renumbered 961.49 (1) (intro.) and amended to read:

961.49 (1) (intro.) If any person violates s. 961.41 (1) (cm), (d), (e), (f), (g) or (h) by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (e), (f), (g) or (h) by possessing with intent to deliver or distribute, cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, methcathinone or any form of tetrahydrocannabinols or a controlled substance analog of any of these substances while and the delivery, distribution or possession takes place under any of the following circumstances, the maximum term of imprisonment prescribed by law for that crime may be increased by 5 years:

(a) While the person is in or on the premises of a scattered-site public housing project, ~~while,~~

(b) While the person is in or on or otherwise within 1,000 feet of a any of the following:

1. A state, county, city, village or town park, ~~a,~~

2. A jail or correctional facility, ~~a,~~

3. A multiunit public housing project, ~~a,~~

4. A swimming pool open to members of the public, ~~a,~~

5. A youth center or a community center, ~~while in or on or otherwise within 1,000 feet of any,~~

6. Any private or public school premises ~~or while in or on or otherwise within 1,000 feet of a,~~

7. A school bus, as defined in s. 340.01 (56), ~~the maximum term of imprisonment prescribed by law for that crime may be increased by 5 years.~~

SECTION 2m. 961.49 (1) (c) and (d) of the statutes are created to read:

961.49 (1) (c) While the person is in or on the premises of an approved treatment facility, as defined in s. 51.01 (2), that provides alcohol and other drug abuse treatment.

(d) While the person is within 1,000 feet of the premises of an approved treatment facility, as defined in s. 51.01 (2), that provides alcohol and other drug abuse treatment, if the person knows or should have known that he or she is within 1,000 feet of the premises of the facility or if the facility is readily recognizable as a facility that provides alcohol and other drug abuse treatment.

SECTION 3. 961.49 (2) (a) of the statutes is renumbered 961.49 (2) (a) (intro.) and amended to read:

961.49 (2) (a) (intro.) Except as provided in par. (b), if any the court shall sentence a person as provided in par. (am) if the person violates s. 961.41 (1) by delivering or distributing, or violates s. 961.41 (1m) by possessing

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

with intent to deliver or distribute, a controlled substance included in schedule I or II or a controlled substance analog of a controlled substance included in schedule I or II while under any of the following circumstances:

1. While the person is in or on the premises of a scattered-site public housing project, ~~while,~~

2. While the person is in or on or otherwise within 1,000 feet of a any of the following:

a. A state, county, city, village or town park, ~~a,~~

b. A jail or correctional facility, ~~a,~~

c. A multiunit public housing project, ~~a,~~

d. A swimming pool open to members of the public, ~~a,~~

e. A youth center or a community center, ~~while in or on or otherwise within 1,000 feet of any,~~

f. Any private or public school premises ~~or while in or on or otherwise within 1,000 feet of a,~~

g. A school bus, as defined in s. 340.01 (56), ~~the,~~

(am) The court shall sentence the a person to whom par. (a) applies to at least 3 years in prison, but otherwise the penalties for the crime apply. Except as provided in

1997 Assembly Bill 589

s. 961.438, the court shall not place the person on probation. The person is not eligible for parole until he or she has served at least 3 years, with no modification by the calculation under s. 302.11 (1).

SECTION 4m. 961.49 (2) (a) 3. and 4. of the statutes are created to read:

961.49 (2) (a) 3. While the person is in or on the premises of an approved treatment facility, as defined in s. 51.01 (2), that provides alcohol and other drug abuse treatment.

4. While the person is within 1,000 feet of the premises of an approved treatment facility, as defined in s. 51.01 (2), that provides alcohol and other drug abuse treatment, if the person knows or should have known that he or she is within 1,000 feet of the premises of the facility or if the facility is readily recognizable as a facility that provides alcohol and other drug abuse treatment.

SECTION 5. Initial applicability.

(1) This act first applies to offenses committed on the effective date of this subsection.